IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

Tuesday, the Ninth Day of September, Two Thousand and Four

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

WRIT PETITION NO : 5585 of 1995

Between:

1 M/s Srinivasa Industries,B-8/60-1 D.A., Balanagar, R.R.Dist

2 M.Srinivas Reddy S/o. late Bal Reddy, R/o. Balkampet

Sanathnagar, Hyderabad
3 K.Krishna Reddy S/o. late K.Rama Swamy Reddy
R/o. 4-80/4, Ferozguda, Boinpally, Hyderabad
4 M.Arundhathi W/o. M.Yadi Reddy, R/o. Balkampet Sanathnagar
Hyderabad
5 K.Gopal Reddy S/o. late K.Rama Swamy Reddy
r/o. 4-80/4, Ferozguda, Boinpally, Hyderabad

..... PETITIONERS

AND

1 Special Officer & Competent Authority Urban Land Ceiling
Mozamjahi Market, Hyderabad
2 Deputy Tahasildar of the office of Special Officer & Competent

Authority, Urban Land Ceiling, Hyderabad
Mozamjahi Market Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records pertaining to the notice dt: 3/2/95 issued in file No.F1/11102/76, by the respondent-1 herein and earlier orders dt: 11/3/93 and 8/7/93 passed therein from the office of the respondent-1 herein and may be pleased to quash the same by issuing a writ or direction more particularly one in the nature of writ of certiorari declaring the same as illegal without jurisdiction and contrary to the provisions of the Act and to issue any other writ or direction which this Court deems fit under the

circumstances of this case.

Counsel for the Petitioner:MS.A.PULLA REDDY & ABHISHEK REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following O R D E R:

Heard learned counsel for the parties.

This writ petition has been filed by M/s Srinivasa Industries and its partners. The petitioners submit that in the year 1974, under an agreement dated 11-11-1974, the Andhra Pradesh Industrial Infrastructure Corporation (P) Limited (for short "APIIC") allotted a plot of land, measuring ½ acre at Balanagar Industrial Development Area for setting up a factory for the manufacture of structural fabrication of rolling shutters and agricultural implements, to the petitioners. Under the said agreement, petitioner No.1 was a licensee and was not an owner of the land. Petitioner Nos. 2 to 5, who are the partners of petitioner No.1, under a mistaken impression that the land in question was covered by the provisions of Urban Land (Ceiling and Regulation) Act, 1976, filed a ceiling declaration, wherein they mentioned that the land in question was allotted for industrial purpose by the APIIC. The agreement dated 11-11-1974 was basically an agreement granting license. The APIIC is a Government company, registered under Companies Act, having its registered office at Basheerbagh, Hyderabad. The conditions imposed while allotting the land by the APIIC are such that the land could not be subject matter of Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act"). The APIIC, which is the owner of the property, was exempted from the provisions of the Act under Section 19(1) of the Act. The petitioners before execution of the registered sale deed on 21-12-1987 had constructed the structures with the permission of the APIIC as per the terms and conditions of the agreement dated 11-11-1974 covering the entire area allotted to them and established the industry within the stipulated period.

The respondents, having knowledge of the interest of the petitioners over the property on the day of filing of the statement under Section 6(1) of the Act, but in spite of that treated the entire land as vacant land belonging to the petitioners and declared that petitioners hold land to an extent of 1266.84 square meters in excess of the ceiling limit vide proceedings dated 11-03-1993. In this background, the petitioners prayed that notice under Sub-section (5) of Section 10 of the Act, dated 03-02-1995 be quashed.

In the counter-affidavit filed by the Additional Special Officer-II in the Office of the

Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad, it has been stated that petitioner No.1 itself has filed a statement in form-I under Section 6(1) of the Act declaring the following properties.

S.No.	Description of the property	Location	Sy.No./plot No./Pre.No.	Extension
1.	Land with factory	IDA, Balanagar	-----	2023.43 Sq.m
2.	Land with factory	Ministers' Road, Secunderabad.	H.No.1-8-30/6	234.10 sq.m

After due enquiry, draft statement under Section 8(1) and a notice under Section 8(3) of the Act were issued on 11-03-1993 provisionally determining the declarant as surplus vacant land holder to an extent of 1266.84 square meters in Plot No.34(P) situated at I.D.A.Balanagar. Petitioner No.1 did not file any objections to the notice under Section 8(3) of the Act and the same was confirmed without any alterations. Accordingly, order under Section 8(4) and final statement under Section 9 of the Act were issued on 08-07-1993 finally determining that petitioner No.1 was an excess land holder to an extent of 1266.84 square meters. Consequently, notification under Section 10(1) of the Act was published in A.P. Gazette on 12-05-1994. The declaration under Section 10(3) of the Act was published in A.P. Gazette on 22-09-1994 and notice under Section 10(5) of the Act was issued on 02-02-1995. It is further contended that in the statement under Section 6(1) of the Act, petitioner No.1 itself had stated that it was holder of the property by virtue of an agreement of sale and subsequently, the land was sold to it by the APIIC under a registered sale deed dated 21-12-1987. Thus, the petitioners became absolute owners of the land and after due enquiry, it was also found that the petitioners were the absolute owners of the land.

In view of these pleadings of the parties, the sole question remains is whether petitioner No.1 was sole owner of the property or it was a licensee?

The petitioners have annexed copy of agreement and copy of sale deed along with the writ petition. The agreement is not important, because, in consequence of this agreement, sale deed had been executed. This sale deed was executed on 21st December, 1987 between the APIIC and the petitioners.

Paras 5, 7 and 13 of the sale deed read as under:

PARA 5:

> *"And whereas an agreement of sale was entered into on 11-11-1974 between the party of the second part and the party of the first part specifying the terms and conditions governing the allotment of the land to the party of the second part".*

PARA 7:

> *"And whereas the party of the first part has agreed to sell the land and the party of the second part has agreed to purchase the said land free from all encumbrances for a total consideration of Rs.16,742.35 (Rupees sixteen thousand seven hundred forty two and thirty five paise only) towards the cost of the land including the development charges having been paid to the party of the first part by the party of the second part, the receipt whereof the party of the first part hereby admits and acknowledges; the party of the first part doth hereby sell, grant, convey, transfer and assign unto the party of the second part all that piece and parcel of land being plots in Industrial Estate/Industrial Development Area/Auto Nagar particularly described in the schedule hereunder and for greater clearness delineated in the plan annexed hereto together with all rights, title, easements and all other rights in any wise appertaining hereto TO HOLD the said land unto and to the use of the party of the second part absolutely and for ever. Party of the second part shall use the said land for the aforesaid purpose of putting up a factory or factories duly permitted by the competent authority and for no other purpose. The party of the second part agree that it shall not put any structure or building other than a factory building or buildings. The party of the second part shall however has the liberty to construct residential quarters for Watchman/Driver who are employed in the factory put up in the land sold since such arrangement will be conductive for a better and more beneficial enjoyment of the plot land sold herein.*

PARA 13:

> *"The cost of schedule property has been fixed at Rs.16,742.35 (Rupees sixteen thousand seven hundred forty two and thirty five paise only) on 10-12-1987 by the Vice Chairman & Managing Director as authorized by the Board of Directors of the Corporation"*

These paragraphs from sale deed make it clear that the title was transferred completely on payment of full consideration amount. Sale is defined in Section 54 of the Transfer of Property Act, 1882, as transfer of ownership in exchange for a price paid or promised or part-paid and part promised. So the ingredients of sale are transfer of ownership in exchange of a price paid or promised, part-paid and part-promised. The agreement satisfies all these ingredients and therefore, there can be

no doubt that the agreement was a sale within the meaning of Section 54 of the Transfer of Property Act, 1882, and the petitioners had become absolute owners of the land in question.

Since the land was allotted to the petitioners may be on concessional rates, therefore, certain conditions were imposed by the APIIC with regard to the use of the property, but that could not in any way change the characteristics of the conveyance. Therefore, I do not agree with the petitioners that the agreement dated 11-11-1974 was not a sale, but only a license. Even otherwise, petitioners themselves declared the schedule property to be their own property. After all they were not forced to make any declaration under Section 6 of the Act, but yet they made a declaration and stated in no uncertain terms that they were the owners of the property, which is subject matter of this writ petition.

For these reasons I do not find any merit in the writ petition, which is accordingly dismissed. No order as to costs.

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(Bilal Nazki,J)

09-09-2004

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To

1 Special Officer & Competent Authority Urban Land Ceiling
Mozamjahi Market, Hyderabad
2 Deputy Tahasildar of the office of Special Officer & Competent

Authority, Urban Land Ceiling, Hyderabad
Mozamjahi Market Hyderabad

3 Two C.Cs to the Government Pleader for Revenue, High Court

Buildings, A.P., Hyderabad (OUT)

4 Two C.D. copies